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JULIANNE F. CATALANO

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

OPPENHEIMER & CO., INC.,)	Case No. 3:17-cv-04669-WHO
)	
Plaintiff in Interpleader,)	JOINT STIPULATION TO DISMISS ALL
)	ERISA CLAIMS AND REMAND STATE
vs.)	CLAIM AND ORDER THEREON
)	
)	[Related to Case No. 3:17-cv-06389-WHO]
JULIANNE F. CATALANO; CONNI TROEST)	
CATALANO,)	
)	
Defendants in Interpleader.)	

TO THIS HONORABLE COURT OF RECORD:

IT IS HEREBY STIPULATED by the parties through their respective counsel as follows:

1 (1) The parties previously stipulated to settle all ERISA claims that they may have against
2 each other, including the claim of Oppenheimer & Co. Inc. (hereinafter “Oppenheimer”) for attorney’s
3 fees and costs on its Interpleader action. The parties filed this Stipulation with this Court on or about
4 February 13, 2018 (the “Joint Stipulation”) [Dkt. 41]. There were two related federal actions: the
5 Interpleader Action (no. 3:17-cv-04669-WHO) and related removed action (no. 3:17-cv-6389-WHO,
6 *i.e.*, San Francisco Superior Court no. CGC17-559627). Claims for attorney’s fees and costs relating to
7 the ERISA claims were previously waived by the parties.

8 (2) The Joint Stipulation provided that Oppenheimer would liquidate the SEP-IRA and
9 receive \$45,000.00 from SEP-IRA account which was the subject of the Interpleader action no. 3:17-
10 cv-04669-WHO, as consideration for the terms of the Joint Stipulation. Since the parties filed the Joint
11 Stipulation, Oppenheimer has liquidated the SEP-IRA and received the \$45,000.00.

12 (3) The remainder of monies in the SEP-IRA account which is the subject of the Interpleader
13 action, after payment of the compromised sum of \$45,000.00 to Oppenheimer was to be transferred to
14 an Oppenheimer 529 Education Savings Account, for the benefit of the education of decedent Jannik
15 Catalano’s two minor children equally until the children reach the age of 18 years, at which time the
16 funds may be used for the children’s education.

17 (4) As to the remainder of the liquidated funds, the parties have agreed that it is in the best
18 interests of all the parties to transfer the remaining funds to a new broker on similar terms to place the
19 funds in 529 Education Savings Account. The parties are in the process of finalizing the transfer of the
20 remaining funds to Julianne Catalano as custodian for the two minor children to deposit with a new
21 broker per the same terms as provided in the Joint Stipulation for a 529 Education Savings Account,
22 and do not require further assistance from the court.

23 NOW THEREFORE, the parties make this Stipulation through their respective counsel, and
24 request that the Court enter the following dismissals and remand order:

25 (1) Dismissal with Prejudice of Interpleader Action No. 3:17-cv-04669-WHO;

26 (2) Dismissal with Prejudice of the Complaint entitled *Julianne F. Catalano v. Oppenheimer*
27 *& Co., Inc.*, in the removed action no. 3:17-cv-06389-WHO (San Francisco Superior Court no. CGC17-
28 559627), as to defendant Conni Troest Catalano (Oppenheimer has already been dismissed from the

1 action);

2 (3) Dismissal with prejudice of the First Cause of Action for Declaratory Relief (brought
3 against cross-defendants Julianne Catalano and Oppenheimer, arising out of ERISA claims) and Third
4 Cause of Action for Breach of Fiduciary Duty (brought against Oppenheimer only, arising out of ERISA
5 claims) in the Second Amended Cross-Complaint of Conni Troest Catalano, entitled *Conni Troest*
6 *Catalano v. Oppenheimer & Co., Inc.*, in the removed action no. 3:17-cv-06389-WHO (San Francisco
7 Superior Court action no CGC17-559627).

8 (4) The Second Cause of Action for Declaratory and Injunctive Relief on non-ERISA claims
9 in the Second Amended Cross-Complaint in the removed action no. 3:17-cv-06389-WHO (San
10 Francisco Superior Court no. CGC17-559627) survive and are remanded to the San Francisco Superior
11 Court for further proceedings.

12 (5) The remainder of the monies in the SEP-IRA account which is the subject of the
13 Interpleader Action, after payment of the compromised sum of \$45,000.00 to Oppenheimer shall be
14 transferred to a 529 Education Savings Account for the benefit of the education of Jannik Catalano's
15 two minor children equally with the provision that the funds cannot be used, except upon Court Order,
16 until the children reach the age of 18 years, at which time the funds may be used for the children's
17 education, and the guardian for the account shall be Julianne Catalano.

18
19 Respectfully submitted,

20
21 DATED: April 5, 2019

/s/Ben Suter

BEN SUTER
TAYLOR J. ALTMAN
ATTORNEYS FOR PLAINTIFF
OPPENHEIMER & CO., INC.

22
23
24 DATED: April 5, 2019

/s/James Farinaro

JAMES FARINARO
LAW OFFICES OF JAMES FARINARO
ATTORNEYS FOR DEFENDANT IN
INTERPLEADER
JULIANNE F. CATALANO

1 DATED: April 5, 2019

/s/Mark Poppett

PATRICK CATALANO

MARK POPPETT

CATALANO & CATALANO

ATTORNEYS FOR DEFENDANT IN

INTERPLEADER CONNI TROEST CATALANO

ORDER

Pursuant to the stipulation of the parties, IT IS ORDERED as follows:

(1) Dismissal with Prejudice of Interpleader Action No. 3:17-cv-04669-WHO;


(2) Dismissal with Prejudice of the Complaint entitled *Julianne F. Catalano v. Oppenheimer & Co., Inc.*, in the removed action no. 3:17-cv-06389-WHO (San Francisco Superior Court no. CGC17-559627), as to defendant Conni Troest Catalano (Oppenheimer has already been dismissed from the action);

(3) Dismissal with prejudice of the First Cause of Action for Declaratory Relief (brought against cross-defendants Julianne Catalano and Oppenheimer, arising out of ERISA claims) and Third Cause of Action for Breach of Fiduciary Duty (brought against Oppenheimer only, arising out of ERISA claims) in the Second Amended Cross-Complaint of Conni Troest Catalano, entitled *Conni Troest Catalano v. Oppenheimer & Co., Inc.*, in the removed action no. 3:17-cv-06389-WHO (San Francisco Superior Court action no CGC17-559627).

(4) The Second Cause of Action for Declaratory and Injunctive Relief on non-ERISA claims in the Second Amended Cross-Complaint in the removed action no. 3:17-cv-06389-WHO (San Francisco Superior Court no. CGC17-559627) survive and are remanded to the San Francisco Superior Court for further proceedings.

(5) The remainder of the monies in the SEP-IRA account which is the subject of the Interpleader Action, after payment of the compromised sum of \$45,000.00 to Oppenheimer shall be transferred to a 529 Education Savings Account for the benefit of the education of Jannik Catalano's two minor children equally with the provision that the funds cannot be used, except upon Court Order, until the children reach the age of 18 years, at which time the funds may be used for the children's education, and the guardian for the account shall be Julianne Catalano.

1 DATED: APRIL 9, 2019


HONORABLE WILLIAM H. ORRICK
UNITED STATES DISTRICT JUDGE